



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

JUSTIN ARCHIE,	§	
Plaintiff,	§	
	§	
vs.	§	CIVIL ACTION NO. 8:08-2381-HFF-BHH
	§	
INVESTIGATOR MCDANIELS,	§	
Richland County Sheriff's Department,	§	
DETENTION OFFICER SMITH, Alvin S.	§	
Glenn Detention Center, SHERIFF OF	§	
RICHLAND COUNTY,	§	
Defendants.	§	

ORDER

This is a civil rights action filed under 28 U.S.C. § 1983. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the Court grant Defendants' motion for summary judgment and dismiss Plaintiff's claims without prejudice. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on April 30, 2009, and the Clerk of Court entered Plaintiff's objections to the Report on May 13, 2009.

In the Report, the Magistrate Judge recommended dismissal because Plaintiff had failed to provide any evidence that he had exhausted his administrative remedies. However, in his objections to the Report, Plaintiff has submitted new evidence concerning grievances allegedly filed with prison administrators.

Because the Magistrate Judge has yet to consider this additional evidence, the Court concludes that remand of this matter to the Magistrate Judge is appropriate. However, the need for remand is certainly through no fault of the Magistrate Judge.

Therefore, it is the judgment of this Court that the case be **REMANDED** to the Magistrate Judge for consideration of the additional evidence.

IT IS SO ORDERED.

Signed this 21st day of May, 2009, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within 30 days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.